Chapter 173-528 WAC

WATER RESOURCES MANAGEMENT PROGRAM FOR THE SALMON-WASHOUGAL BASIN, WRIA 28

PART A
GENERAL

NEW SECTION

WAC 173-528-010 Authority and purpose. (1) The department of ecology (ecology) adopts this chapter under the Watershed Planning Act (chapter 90.82 RCW), Water Resources Act of 1971 (chapter 90.54 RCW), Minimum Water Flows and Levels Act (chapter 90.22 RCW), Water code (chapter 90.03 RCW), Regulation of public ground waters (chapter 90.44 RCW), RCW 43.21A.064(9), and 43.21A.080.

(2) This chapter shall not affect existing water rights, unless otherwise stated in the conditions of the water right in question. It shall also not affect federal Indian and non-Indian reserved rights.

(3) This chapter does not limit ecology's authority to establish flow requirements or conditions under other laws, including hydropower licensing under RCW 90.48.260.

(4) The Salmon-Washougal and Lewis watershed management plan (plan) recommendations were approved in 2006 by the Salmon-Washougal and Lewis planning unit (planning unit) in accord with RCW 90.82.130. The planning unit is a group made up of Clark, Skamania, and Cowlitz county commissioners and a broad range of water use interests. Ecology shall use the plan as the framework for making future water resource decisions in the Salmon-Washougal watershed. Ecology shall rely upon the plan as a primary consideration in determining the public interest related to such decisions, including this rule adoption.

(5) Ecology shall initiate a review of this chapter whenever new information, changing conditions, or statutory modifications make it necessary to consider revisions. Ecology and the planning unit should periodically evaluate the effectiveness of this chapter.

NEW SECTION

WAC 173-528-020 Definitions. For purposes of this chapter, the following definitions shall be used:

"Allocation" means the designation of specific amounts of water for specific beneficial uses.

"Appropriation" means a beneficial use of waters of the state, authorized by and consistent with all applicable laws and regulations.

"Community water supplier" means an entity that supplies water for fifteen or more residential service connections or for providing residential use of water for a nonresidential population that is, on average, at least twenty-five people for at least sixty days a year.

"Consumptive use" means a use of water whereby there is diminishment of the amount or quality of the water source.

"Ecology" means the Washington state department of ecology.

"Environmental restoration project" or "ERP" means a project with a primary purpose of restoring salmonids, requiring a temporary use of water.

"Habitat-forming function" means a physical, chemical, or biological function that is necessary to create and maintain natural or desired habitat conditions that benefit fish and other aquatic life. Habitat forming functions include but are not limited to creating and maintaining the following: Channel migration, gravel and sediment transport, water quality, nutrients, large woody material recruitment, flood plain flows, and riparian habitat.

"Habitat-related action" means enhancing desirable riparian, stream, wetland, or flood plain functions and related biological, chemical, and physical processes.

"Instream flow" means a level of stream flow, established under chapters 90.03, 90.22, 90.54 and 90.82 RCW, necessary in perennial streams to preserve wildlife, fish, scenic, aesthetic, and other environmental and navigational values. The term instream flow is synonymous with "minimum flow" as used in chapters 90.03 and 90.22 RCW, "base flow" as used in chapter 90.54 RCW, and "minimum instream flow" as used in chapter 90.82 RCW.

"Interruptible use" means a type of water use that relies upon withdrawals on a periodic or seasonal basis that if interrupted would not cause substantial hardship or health or safety concerns, or that is highly unlikely to be interrupted during the expected period of use. For the purposes of this chapter, interruptible uses are subject to the instream flows set in WAC 173-528-060.

"Net stream flow depletion" means the total depletion of water from a subbasin that may be available for future use under the reservation set in this chapter. The net stream flow depletion equals the flow depletion that remains after performance of offsetting actions, and is available for use only after applicable conditions in WAC 173-528-110 have been met.

"Nonconsumptive use" means a type of water use where either there is no diversion or withdrawal from a source or where there is

no diminishment of the amount or quality of the water source.

"Permit-exempt withdrawal" or "permit exemption" means a ground water withdrawal exempted from permit requirements under RCW 90.44.050, but otherwise subject to surface and ground water statutes and other applicable laws. For the purpose of this chapter, stockwater use does not include feedlots or other activities not related to normal grazing land uses.

"Planning unit" means the Salmon-Washougal and Lewis watershed planning unit, established under chapter 90.82 RCW, and all successors, formally designated by the Salmon-Washougal and Lewis watershed planning initiating governments.

"Public water system" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including any collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with the system; and collection or pretreatment storage facilities not under control of the purveyor but primarily used in connection with the system.

"Regional supply area" means a defined area where ecology finds water to be available for future ground water withdrawal. Regional supply areas are designated by WAC 173-528-090 or by order of ecology.

"Reservation" means a one time, finite allocation of water for future beneficial uses. For the purposes of this chapter, the reservation is not subject to instream flows set in WAC 173-528-060, nor to closures set in WAC 173-528-070. The reservation is senior to the instream flow water rights set in WAC 173-528-060.

"Water-related action" means an offsetting activity that provides a quantity of water during certain times and at certain places that essentially replaces water at or upstream of where a proposed water right would impact surface flow. Water-related actions include but are not limited to acquiring an active water right or donation of a water right to the trust water right program under chapter 90.42 WAC.

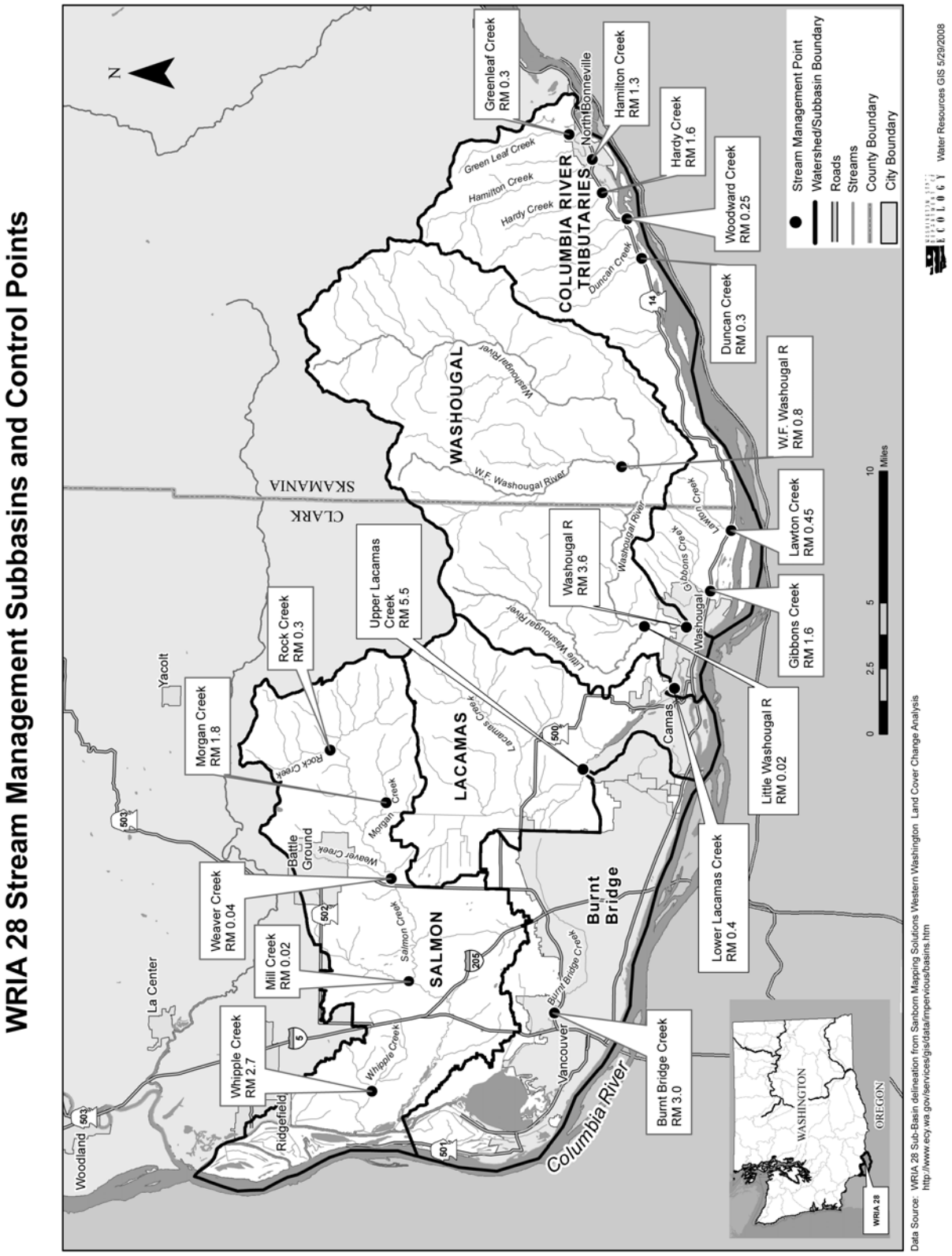
"Water right" means a right to make beneficial use of public waters of the state, including any water right established for instream flow purposes or a permit-exempt ground water withdrawal.

"Watershed plan" means the Salmon-Washougal and Lewis watershed management plan, adopted on July 21, 2006, by the Clark, Cowlitz, and Skamania county commissioners.

"Withdrawal" means the extraction of ground water, or the diversion of surface water for a beneficial use.

NEW SECTION

WAC 173-528-030 Map.



NEW SECTION

WAC 173-528-040 Compliance and enforcement. (1) Ecology shall prepare and make available to the public, technical and educational information regarding the scope and requirements of this chapter. This is intended to assist the public in complying with the requirements of their water rights and applicable water laws and rules.

(2) When ecology determines that a violation of this chapter has occurred, it shall:

(a) First attempt to achieve voluntary compliance, except in appropriate cases involving potential harm to other water rights or the environment. An approach to achieving voluntary compliance is to offer information and technical assistance to a violator. The information or technical assistance identifies, in writing, one or more means to accomplish the person's purposes within the framework of the law.

(b) If education and technical assistance do not achieve compliance, ecology has the authority to issue a notice of violation, a formal administrative order under RCW 43.27A.190, assess penalties under RCW 43.83B.336 and 90.03.600, or may seek criminal enforcement under RCW 90.03.400, 90.03.410, and 90.44.120.

PART B
INSTREAM FLOWS AND CLOSURES

NEW SECTION

WAC 173-528-050 Stream management control points. Ecology hereby establishes the following stream management control points shown in Table I. Management point locations are shown in WAC 173-528-030.

Table I
Stream Management Control Point Information

Stream Management Point Name	Control Station by River Mile (RM); Latitude (Lat.), Longitude (Long.)
Whipple Creek (at 179th St. crossing)	RM 2.7; 45°45'00"N, 122°42'52"W
Mill Creek (at North Salmon Creek Rd.)	RM 0.02; 45°43'50"N, 122°37'39"W
Weaver Creek (at 199th Rd. crossing)	RM 0.04; 45°44'33"N, 122°32'48"W
Morgan Creek (at 182nd St. crossing)	RM 1.8; 45°44'47"N, 122°29'13"W
Rock Creek (near 213th Rd.)	RM 0.3; 45°46'40"N, 122°26'47"W
Little Washougal River (at Highway 140 crossing)	RM 0.02; 45°36'26"N, 122°20'37"W
Washougal River (at Hathaway Park, Ecology gage 28B090)	RM 3.6; 45°35'02"N, 122°20'36"W
West Fork Washougal River (at Skamania Hatchery)	RM 0.8; 45°37'18"N, 122°13'07"W
Gibbons Creek (at Frontage Rd. crossing)	RM 1.6; 45°34'31"N, 122°18'53"W
Lawton Creek (at Highway 14 crossing)	RM 0.45; 45°33'39"N, 122°16'00"W
Duncan Creek (at Highway 14 crossing)	RM 0.3; 45°36'47"N, 122°03'16"W
Woodward Creek (at Beacon Rock State Park Rd. crossing)	RM 0.25; 45°37'17"N, 122°01'25"W
Hardy Creek (at Highway 14 crossing)	RM 1.6; 45°38'07"N, 122°00'13"W
Hamilton Creek (near North Bonneville)	RM 1.3; 45°38'28"N, 121°58'39"W
Greenleaf Creek (at Cascade Drive crossing)	RM 0.3; 45°39'15"N, 121°57'29"W
Upper Lacamas Creek (at NE Goodwin Rd. crossing)	RM 5.5; 45°38'20"N, 122°27'25"W
Lower Lacamas Creek (NE 3rd Ave. crossing)	RM 0.4; 45°35'26"N, 122°23'28"W
Burnt Bridge Creek (at Arnold Park)	RM 3.0; 45°39'05"N, 122°38'57"W

NEW SECTION

WAC 173-528-060 Establishment of instream flows. (1) The instream flows established in this chapter are based on the recommendations of the planning unit; consultation with the department of fish and wildlife, department of agriculture, and department of community, trade, and economic development; and public input received during the rule-making process. The planning unit recommended these instream flow levels by unanimous vote.

(2) Instream flows established in this chapter are water rights, which protect instream values and functions from future appropriations. The priority date of the instream flows is the effective date of this chapter. In accordance with RCW 90.82.080, this priority date received unanimous approval from the planning unit.

(3) Instream flow rights shall be protected from impairment by any new water rights commenced after the effective date of this chapter and by all future changes and transfers of senior and junior water rights, including both surface and ground water rights. The following water rights are not subject to the instream flows:

(a) A water right put to beneficial use before the effective date of this chapter, unless stated in the conditions of the water right or change authorization.

(b) Water rights appropriated from the reservation of water established in WAC 173-528-110.

(c) Water rights for environmental restoration purposes under WAC 173-528-140, unless included as a permit condition.

(4) Instream flows, expressed in cubic feet per second (cfs), are measured at the stream management control points in WAC 173-528-050. Instream flows apply to all stream reaches that contribute to flow at stream management control points, as shown in Table II of this section. For reaches that are downstream of all management points, the flows established for the nearest upstream management control point shall apply to those reaches. However, if a point of withdrawal is downstream of the confluence of two or more branches, each having a designated management point, the combined flows of the management points shall apply to that withdrawal.

Table II
Instream Flows in the Salmon/Washougal Basin (cubic feet per second)

Month	**Stream Management Control Point**						
	Whipple Creek, RM 2.7	Mill Creek, RM 0.02	Weaver Creek, RM 0.04	Morgan Creek, RM 1.8	Rock Creek, RM 0.3	Burnt Bridge Creek, RM 3.0	Lower Lacamas Creek, RM 0.4
January	28	27	12	17	36	20	112
February	51	50	23	33	63	38	112
March	51	50	23	33	63	38	96
April	51	50	23	33	63	38	96

Month	Stream Management Control Point						
May	51	50	23	33	63	38	96
June	34	33	15	22	42	25	64
July	34	33	15	22	42	25	64
August	12	11	4	7	15	8	27
September	12	11	4	7	15	8	112
October	28	27	12	17	36	20	112
November	28	27	12	17	36	20	112
December	28	27	12	17	36	20	112

Month	Stream Management Control Point						
	Upper Lacamas Creek, RM 5.5	Washougal River, RM 3.6	Little Washougal River, RM 0.02	W.F. Washougal River, RM 0.8	Gibbons Creek, RM 1.6	Lawton Creek, RM 0.45	Duncan Creek, RM 0.3
January	39	425	193	205	27	24	21
February	39	425	193	205	49	44	39
March	39	375	160	169	49	44	39
April	39	375	160	169	49	44	39
May	39	375	160	169	49	44	39
June	39	525	107	112	33	29	26
July	39	240	107	112	33	29	26
August	39	168	48	51	11	10	8
September	39	264/425*	193	205	11	10	8
October	39	425	193	205	27	24	21
November	39	425	193	205	27	24	21
December	39	425	193	205	27	24	21

*The Washougal River, RM 3.6, instream flow right is for 264 cubic feet per second from September 1 to September 15, and 425 cubic feet per second from September 16 to September 30.

Month	Stream Management Control Point			
	Woodward Creek, RM 0.25	Hardy Creek, RM 1.6	Hamilton Creek, RM 1.3	Greenleaf Creek, RM 0.3
January	42	40	72	31
February	72	69	117	55
March	72	69	117	55
April	72	69	117	55
May	72	69	117	55
June	48	46	78	37
July	48	46	78	37
August	18	17	33	13
September	18	17	33	13
October	42	40	72	31
November	42	40	72	31
December	42	40	72	31

NEW SECTION

WAC 173-528-070 Surface and ground water closed to further consumptive appropriations. (1) Based on historical and current low flows and the water withdrawals by existing water right holders, ecology has determined that no waters are reliably available for new consumptive uses from certain surface water sources in the basin. Therefore, all surface waters listed in Table III are closed to any further consumptive appropriation, except as provided in WAC 173-528-080.

Table III
Surface Water Closures

Subbasin Name*	Affected Reach
Salmon Creek	Salmon Creek from confluence with Lake River (45°43'32"N, 122°44'07"W) to headwaters, including tributaries. Whipple Creek from confluence with Lake River (45°45'30"N, 122°44'57"W) to headwaters, including tributaries.
Burnt Bridge Creek	Burnt Bridge Creek from mouth at Vancouver Lake to headwaters, including tributaries.
Lacamas Creek	Lacamas Creek from confluence with Washougal River (45°35'13"N, 122°23'40"W) to headwaters, including tributaries.
Washougal River	Washougal River from mouth at Columbia River to headwaters, including tributaries.
Columbia River Tributaries	All surface waters in the Columbia River tributaries subbasin from mouth at Columbia River to headwaters, including tributaries.
*Subbasin boundaries are shown in WAC 173-528-030, and are consistent with the boundary descriptions used in the watershed plan.	

(2) Based on the hydrogeology of the basin, and the location and depth where ground water withdrawals generally occur, there is

a high likelihood that future ground water withdrawals would capture water that affects closed surface waters. Therefore, the basin is closed to new withdrawals of ground water (including any new permit-exempt withdrawals) that would affect closed surface waters, except as provided in WAC 173-528-080.

(3) Applications for a withdrawal that would not affect the closed reaches, listed in Table III, shall be evaluated on a case-by-case basis under applicable law.

PART C
FUTURE WATER RIGHTS

NEW SECTION

WAC 173-528-080 Future water rights, generally. A new surface or ground water appropriation (including any permit-exempt withdrawal) may be commenced only if consistent with the surface and ground water statutes and other applicable requirements of law and if any one of the following seven conditions (subsections (1) through (7) of this section) apply:

(1) The proposed water use is nonconsumptive.

(2) The proposed surface water diversion is not located on any of the surface waters closed in WAC 173-528-070, Table III.

(3) The proposed ground water withdrawal is located where it would not affect any of the surface waters closed in WAC 173-528-070, Table III by either meeting condition (a) or (b) of this subsection:

(a) The person or entity seeking to commence a proposed ground water use shows, through scientifically sound studies and technical analysis, that the ground water use would not affect any of the closed surface waters identified in WAC 173-528-070, Table III.

(b) The proposed ground water withdrawal occurs in a regional supply area designated in WAC 173-528-090 or by order of ecology.

(4) The person or entity seeking to commence the new appropriation submits a scientifically sound mitigation plan, and such plan is approved by ecology. A mitigation plan may be approved if the proponent can demonstrate to ecology's satisfaction that when the mitigation is implemented the proposed withdrawal(s) will not impair senior water rights, including instream flow rights, adversely impact instream resources, or diminish water quality. A mitigation plan can be submitted to mitigate for an individual withdrawal or to mitigate for multiple withdrawals in a defined region.

An approved mitigation plan shall include a monitoring and

reporting plan. It shall also include conditions that the plan be implemented as long as the associated water right is used and that any water provided for mitigation purposes be prohibited from being applied to any other purpose. If monitoring of a mitigation plan shows the mitigation is not effective, departmental approval of the mitigation plan shall be suspended and the water use shall cease until the department approves a new or revised mitigation plan.

(5) The proposed water use qualifies as an interruptible use as defined in WAC 173-528-020, and meets the criteria in WAC 173-528-100.

(6) The proposed water use qualifies for the reservation established and as conditioned in WAC 173-528-110.

(7) The proposed use is for an environmental restoration project and meets the criteria in WAC 173-528-140.

NEW SECTION

WAC 173-528-090 Regional supply areas for future ground water withdrawals. (1) Ecology finds there to be certain locations where water is potentially available on a year-round basis for future ground water withdrawals. Ecology further finds that withdrawals in these areas are unlikely to affect surface waters closed in WAC 173-528-070, Table III or instream flow values protected under RCW 90.54.020(3). Such regional supply areas are recognized in the watershed plan and supported by the public interest as preferred locations for developing future water supply. Ground water withdrawals (including permit-exempt withdrawals) may be commenced in the designated regional supply areas to the extent such withdrawals are consistent with chapters 90.03 and 90.44 RCW, and any other applicable requirements of law.

(2) Based on local hydrology, ecology finds that ground water withdrawals made in areas designated below meet the conditions for regional supply areas in subsection (1) of this section and are so designated:

(a) The Vancouver Lake Lowlands Area, defined as all lands located west of the Burlington Northern Santa Fe Railroad right of way that are within Water Resource Inventory Area 28; and

(b) The Steigerwald Wildlife Refuge Area, defined as all lands located east of 15th Street in the city of Washougal, south of Washington State Highway 14, and west of Lawton Creek.

(3) Ecology, in consultation with the department of fish and wildlife, may by order designate other regional supply areas that meet the criteria in subsection (1) of this section.

(4) In order to protect instream values of surface waters in regional supply areas, ecology reserves the right to deny any withdrawals whereby drawdown effects from pumping would create a significant impact to local surface waters. For the purposes of this section, significant impact includes but is not limited to a

noticeable reduction in lake level or flow in local streams.

NEW SECTION

WAC 173-528-100 Future appropriations for interruptible use from the Washougal River. (1) Ecology finds there may be water available in the Washougal River, above existing water rights and instream flows, which could be captured for interruptible use. This water is only available from November 16 to May 14.

(2) Prior to commencement, the person or entity seeking a new interruptible appropriation must demonstrate a seasonal need and provide assurances that any effects on surface waters that may result from withdrawals will be limited from November 16 to May 14 and only from the Washougal River.

(3) Ecology shall deny an appropriation for interruptible use if such use, or the cumulative effects of such uses, would compromise habitat-forming functions provided by high flows. In no case shall new individual or cumulative allocations exceed one hundred cubic feet per second. This allocation limit is based upon an allowance for ten percent of the average historic flow. The allocation limit may be lowered on a case-by-case basis whenever more protection of habitat-forming functions is needed.

(4) Interruptible uses are subject to existing water rights and instream flows set in WAC 173-528-060.

NEW SECTION

WAC 173-528-110 Reservation of surface and ground water for future uses. (1) Ecology has weighed the public interest that supports the reservation of a limited amount of water for future consumptive uses against the potential for negative impact to instream resources. Ecology finds that the public interest advanced by a limited reservation clearly overrides the small potential for negative impacts on instream resources.

Based on this finding, ecology hereby allocates an amount and rate of use of water for specific water users and subbasins, as indicated under the subtitle "Net streamflow depletion" in Table IV. The reservations are a one time, finite resource. When and if water is fully appropriated from the reservation, all remaining waters in closed areas are hereby appropriated for instream flow use.

This reservation is available to a user only if the conditions set forth in subsection (2) or (6) of this section are met, as well as any applicable requirements of law, including but not limited to

all water resource laws and regulations.

(2) Ecology may approve a water right application for water from the reservation if all of the following conditions in (a), (b), (c), and (d) of this subsection are met:

Alternatives analysis

(a) The applicant demonstrates that no practicable supply alternatives to the reservation are available. In order to satisfy this condition, an applicant must demonstrate consideration of other regional water sources to supply water for the same use now being proposed, including:

(i) Existing public water system supply;

(ii) Water from a ground or surface water source, which may be withdrawn without affecting any of the surface waters closed in WAC 173-528-070, such as water from a hydraulically disconnected deep aquifer source or regional supply area;

(iii) Supply options from surface and ground water storage;

(iv) Water savings from conservation techniques, such as reuse of waste water; and

(v) Mitigation and minimization considerations to the extent required in (d) of this subsection, impact analysis.

Water-related offset

(b) The applicant demonstrates it will offset the overall streamflow depletion(s) through water-related actions to the maximum extent practicable. Applicants should offset at least one-half of the overall streamflow depletion(s) through water-related actions.

(i) In evaluating the adequacy of water-related actions to offset depletions, ecology will evaluate the action based on the degree of aquatic benefit it would provide. A water-related offset may have a greater or lesser benefit due to the seasonality, location, or quality of water provided. The level of benefit will be used to determine if any additional offsets will be required of the applicant.

(ii) Ecology will consider water-related offsets only to the extent that reasonable assurance exists that such offsets will be successfully delivered or donated to the trust water right program under chapter 90.42 RCW where delivery is legally guaranteed.

Habitat-related offset

(c) After satisfying the water-related offset requirement in (b) of this subsection, an applicant must offset any remaining streamflow depletion through habitat-related actions that create or enhance habitat. Habitat-related offsets must compensate for the habitat loss or degradation that will result from the net streamflow depletion.

An applicant must provide adequate assurances that a habitat-related action in fact occurs. Ecology, as appropriate, shall condition use of the reservation with performance standards and monitoring requirements, or require financial assurance mechanisms prior to reservation use.

Impact analysis

(d) In keeping with the findings of the watershed plan, ecology finds that the public interest supports avoidance and

minimizing impacts to tributaries. The applicant must demonstrate one of the following:

(i) The proposed withdrawal does not impact tributaries to subbasin mainstems; or

(ii) An impact to a tributary to a subbasin mainstem is unavoidable, as demonstrated by an impact analysis, included as part of the alternatives analysis under (a) of this subsection. In addition to demonstrating the necessary considerations under (a) of this subsection, the impact analysis must demonstrate consideration of water supply options that avoid the impact to the tributary as well as supply options that may minimize such impact.

Ecology, in consultation with the department of fish and wildlife, may require an applicant to monitor affects of a ground water withdrawal as a condition of water use.

Application review and permitting

(3) In determining practicability in subsection (2) of this section, ecology will consider both economic and logistic considerations, as well as guidance from the watershed plan.

(4) Ecology, in consultation with the department of fish and wildlife, will evaluate the adequacy of proposed offsets and alternatives analysis in subsection (2) of this section. The evaluation shall be consistent with the watershed plan and guidance documents approved by ecology. Ecology will also consider recommendations and technical advice received from the planning unit or by an advisory committee, formally designated by the planning unit.

(5) Ecology will issue a permit for use of water equal to the amount it determines appropriate to allocate from the reservation, and such amount will be debited from the total reservation amount. The total quantity of water appropriated shall not exceed the amount and rate listed under the subtitle "Net streamflow depletion" in Table IV. However, ecology will issue a permit for a quantity beyond the amount debited from the reservation for the following:

(a) Water-related offsets to the extent such offsets are water-for-water, to the satisfaction of RCW 90.03.380 or 90.44.100, any other applicable laws, and terms of an approved mitigation plan under WAC 173-528-080(4); and

(b) Water use to the extent closed water sources are not affected and to the satisfaction of applicable requirements of law, including but not limited to all water resource laws and regulations.

Permit-exempt ground water use

(6) The requirements in subsection (2) of this section do not apply to permit-exempt withdrawals. However, permit-exempt withdrawals under RCW 90.44.050 are subject to both of the following conditions in order to occur under the reservation:

(a) Future permit-exempt well use may not occur where connection to an existing community water supplier can be provided in a timely and reasonable manner. Determinations of timely and reasonable shall be consistent with public water system plans, local laws, and state laws, including but not limited to Clark

County Code 40.370.020 and chapter 246-290 WAC.

(b) Water use from a permit-exempt ground water well must be consistent with the allocation limits of this reservation and the Clark and Skamania County code and other applicable laws, including the statute on permit exemptions, RCW 90.44.050. Single or group domestic uses under the permit exemption shall not exceed five thousand gallons per day. Irrigation of lawn and noncommercial garden under the permit exemption shall not exceed one-half acre.

Table IV
Allocation of Reservation

Subbasin Name*	Water User**	Expected Streamflow Depletion without Offset (overall depletion) cubic feet per second (cfs)	Expected Water-related Offset Requirement (cfs)	Net Streamflow Depletion*** (cfs)
Salmon Creek	Clark Public Utility, Battle Ground and Ridgefield	0.25	0.13	0.13
	Permit-exempt ground water wells	0.12	0.00	0.12
Burnt Bridge	City of Vancouver	0.04	0.02	0.02
Lacamas Creek	City of Camas	1.00	0.50	0.50****
	Clark Public Utility	0.60	0.30	0.30
	Other public water systems	0.37	0.19	0.19
	Permit-exempt ground water wells	0.17	0.00	0.17
Washougal River	City of Camas	1.00	0.50	0.50****
	Other public water systems in Clark County	0.37	0.19	0.19
	Permit-exempt ground water wells in Clark County	0.17	0.00	0.17
	Other public water systems in Skamania County	0.20	0.10	0.10
	Permit-exempt ground water wells in Skamania County	0.64	0.00	0.64
Columbia River Tributaries	Public water systems in Clark County	0.21	0.10	0.10
	Permit-exempt ground water wells in Clark County	0.12	0.00	0.12

Subbasin Name*	Water User**	Expected Streamflow Depletion without Offset (overall depletion) cubic feet per second (cfs)	Expected Water-related Offset Requirement (cfs)	Net Streamflow Depletion*** (cfs)
	Public water systems in Skamania County	0.21	0.10	0.10
	Permit-exempt ground water wells in Skamania County	0.12	0.00	0.12

*Subbasin boundaries are shown in WAC 173-528-030, and are consistent with the boundary descriptions used in the watershed plan.

** In the Salmon-Washougal and Lewis watershed management plan, the term "domestic wells" has the same meaning as "permit-exempt ground water wells" and the term "small community water systems" has the same meaning as "public water systems."

*** If conditions in subsections (2) and (6) of this section are satisfied, the net depletion of a closed water source, set in WAC 173-528-070, shall not exceed the quantities listed for specific users.

****The total net stream flow depletion for the city of Camas from both Lacamas and Washougal river subbasins shall not exceed 0.50 cfs.

NEW SECTION

WAC 173-528-120 Priority dates of reservation and repeal of chapter 173-592 WAC. (1) The reservation created in WAC 173-528-110 is not subject to the instream flows or closures set in this chapter, and the priority date of the reservation for all areas outside Clark County is the effective date of this chapter.

(2) Ecology hereby transfers unappropriated water from the existing reservation for Clark County in WAC 173-592-070 in such quantities and to the users and areas of use in Clark County as set forth in WAC 173-528-110, Table IV and WAC 173-527-110, Table V. Pursuant to this transfer, the priority date of withdrawals from all Clark County portions of the reservation in WAC 173-528-110 is August 13, 1986. However, the designation of specific municipal suppliers in this reservation does not create a right for these entities to use such water. Such a right will arise only if a permit is applied for by such municipal suppliers to use water under the reservation and approved by ecology after applying the legal tests for a new appropriation. With respect to any water for which a permit has not been granted, ecology reserves the right to modify in all respects or rescind the reservation by future rule making.

(3) Based on new information made available through the local watershed planning process and hydrologic conditions as of the time

of this rule making, ecology has determined that the remaining water reserved under WAC 173-592-070, which was not transferred in subsection (2) of this section or previously appropriated is no longer supported by available information and science. Therefore, chapter 173-592 WAC is hereby repealed in its entirety and all water reserved under that rule that has not been transferred or appropriated is hereby returned to the state. This repeal is not intended to affect any existing water rights issued under the reservation.

NEW SECTION

WAC 173-528-130 Accounting for use under the reservation. (1) A record of all appropriations from the reservation shall be maintained by ecology.

(2) For an appropriation under a permit, ecology will account for water use under the reservation based on authorized quantities under water right permits or certificates, and according to WAC 173-528-110(5).

(3) For permit-exempt ground water appropriations, ecology will deduct a standard amount of two hundred forty gallons per day for each well. For a group domestic water system under the permit-exemption, the standard amount will be applied for each domestic or residential service connection. The standard amount will be adjusted periodically to reflect actual use during low flow conditions. The standard amount assumes a rate of septic recharge from an on-site septic system. In the event that on-site septic recharge is known not to occur, ecology will deduct an additional five hundred sixty gallons per day. Additionally, ecology reserves the right to account for water use based on the best available information contained in well logs, approvals issued by local jurisdictions, or other documents.

(4) If a water user under the reservation subsequently abandons or relinquishes the withdrawal, ecology will credit back to the reservation the actual amount of water used and/or debited from the reservation, upon demonstration to ecology that the well or surface water diversion has been decommissioned through written certification.

(5) Ecology shall notify either Clark or Skamania County and the planning unit, when it determines that fifty percent, seventy-five percent, and one hundred percent, respectively, of the reservation is appropriated for a water user in Table IV.

NEW SECTION

WAC 173-528-140 Future surface water withdrawals for environmental restoration. In keeping with the findings of the watershed plan, ecology finds that the public interest advanced by future withdrawals for ERPs, as defined and conditioned in this section, clearly overrides the minimal negative impacts on instream flows.

(1) A future withdrawal for an ERP may be approved only if it meets all the following:

(a) The proposed water use is for a bypass flow for salmonid restoration or riparian planting project, and the primary purpose of the project is restoration of salmonids.

(b) The proposed project will result in aquatic habitat benefits, and such benefits will exceed any detriment to aquatic habitat that may be caused by reductions in flow at specific locations and times of withdrawal.

(c) The proposed use qualifies for a temporary permit.

(2) Ecology, in consultation with the department of fish and wildlife, will evaluate proposed ERPs. ERPs approved by ecology are not subject to closures or instream flows set in this chapter, unless otherwise conditioned by the permit.